



# UNDERSTANDING DISABILITY AND DISCRIMINATION

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## ABSTRACT

Disability is a diverse and multifaceted aspect of human experience that encompasses a wide range of physical, cognitive, sensory, and psychological conditions. Despite global efforts to promote inclusivity and equal rights, persons with disabilities (PwDs) often face barriers and discrimination in various aspects of their lives. In the educational realm, the inclusion of students with disabilities remains a critical challenge. Despite several laws students with disabilities continue to encounter barriers. These barriers can include inaccessible physical environments, lack of appropriate teaching methodologies, and insufficient support services. Discrimination within educational settings can manifest as social isolation, bullying, and exclusion from extracurricular activities. The workplace is another arena where discrimination against individuals with disabilities persists. Despite legal frameworks in the country, PwDs often face biases during hiring processes, limited career advancement opportunities, and a lack of accessible work environments. Employers may harbor misconceptions about the abilities and contributions of disabled employees, leading to their underemployment or unemployment. The healthcare system plays a crucial role in the lives of individuals with disabilities, yet it is not immune to discriminatory practices. PwDs often encounter barriers in accessing medical facilities, receiving appropriate diagnoses, and obtaining necessary treatments. These barriers can stem from inadequate training of healthcare professionals, inaccessible medical equipment, and biased assumptions about disabled patients' quality of life. Moreover, disabled individuals may experience neglect and substandard care due to stereotypes that devalue their lives. This article explores the issues of disability and discrimination from three crucial perspectives: education, workplace, and healthcare.

**KEYWORDS:** Disability, Discrimination, Education, Workplace and Healthcare.

## INTRODUCTION

Having a disability is a barrier to securing and maintaining employment. Most research has focused on employment barriers among adults, while very little is known about young people's experience finding paid work. Literature showed that teens and young adults with disabilities encountered several barriers and discrimination in seeking paid employment. The types of barriers that these young people encountered varied by age and type of disability. Several socio-demographic factors also influenced barriers to working. Severity, level of education, gender, low income, geographic location and the number of people living in the household all influenced the kind of barriers and work discrimination for these young people. Rehabilitation and life skills counsellors need to pay particular attention to age, type of disability and socio-demographic factors of teens and young adults who may need extra help in gaining employment.

Despite the widespread adoption of national and international policies banning disability discrimination, people with disabilities still experience various forms of disability discrimination known as disablism. While disablism is pervasive, the concept of disablism is less familiar among the mainstream audience than similar concepts like racism and sexism. The profession of social work, with its core value of social justices, has an important role to play in reducing disablism in society. However, the social work profession has its own history of institutional disablism related to the medical model orientation to service provision. The profession of social work can begin to address disablism through focusing on increasing disability awareness within the profession, adopting an anti-oppressive practice approach, and embracing innovative social-service innovations that reduce disablism, such as self-directed supports, person-centered planning and universal design.

### Understanding Disability

The World Health Organization (2012) defines disability as "Disabilities is an umbrella term, covering impairments, activity limitations and participation restrictions. Impairment is a problem in body function or structure. An activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Thus, disability is a complex phenomenon, reflecting an interaction between features of a person's body and features of the society in which he or she lives." Historically, people with disabilities subjected to prejudice and discrimination, have suffered exclusion and a significantly reduced quality of life. Societies where 'normalcy' and 'functionality', have been defined rather narrowly, persons with disabilities have little access to social, political and economic structures. Such a state of art with felt exclusion and discrimination makes the challenged more vulnerable and alienated from the mainstream.

Disability is an impairment that may be cognitive, developmental, intellectual,

mental, physical, etc. It may be present in an individual from birth or occur during one's lifetime. Disability conditions can cause educational barriers in student's learning process. Disability is a human right issue because people with disabilities are subject to violations of dignity. For example, when they are subjected to violence, abuse and prejudice because of their disability. Some people with disability are denied autonomy. As regards disability, the National Policy for Persons with Disabilities (2006) (Osman, 2006) stressed the need for mainstreaming of persons with disabilities in the general education system through inclusive education, identification of children with disabilities through regular surveys, enrollment in appropriate and disabled friendly schools till successful completion of education.

### Discrimination and Its Forms

Discrimination means treating a person unfairly because of who they are or because they possess certain characteristics. If you have been treated differently from other people only because of who you are or because you possess certain characteristics, you may have been discriminated against. Discrimination can occur in the following forms.

- **Direct Discrimination:** under similar circumstances, when a person with a protected characteristics is treated less favorably than others, it is direct discrimination. For example, you have the qualifications and experience necessary for the job but your application is turned down because you are "too young" or "too old".
- **Indirect Discrimination:** If there is a rule of policy in the workplace that be considered indirect discrimination. For example, an organization includes a clause that forces all employees to work on Sunday. This puts Christians at a particular disadvantage as it is common knowledge that Sunday is a day of worship for Christians. You have a right to challenge the clause if it affects you directly.
- **Discrimination by Association:** If you are treated unfairly because someone you know or are associated with has a protected characteristic, this may be construed as discrimination by association. For example – you are refused service in a restaurant because you are with someone who belongs to a particular race.
- **Discrimination by Perception:** Receiving unfair treatment because someone thinks you belong to a group with protected characteristics, you may be experiencing discrimination by perception. For example – you are heterosexual but an estate agency refuses to lease out a flat to you because they assume you are gay due to their misconceptions about how gay people look, dress or behave.
- **Harassment:** Harassment comprises of unwanted behavior that makes another person feel offended, humiliated. Unwanted behavior could include physical gestures, abuse, jokes, spoken or written words or offensive emails and expression. For example – male gym members passing sexual comments or telling unwelcome jokes within earshot of a female gym member could constitute harassment.

- **Victimization:** When a person is treated badly or subjected to detriment because they complained about discrimination or supported another victim of discrimination, this may be considered victimization. For example – you are denied training or advancement avenues at work because you filed a sexual harassment complaint against your boss.

### Disability Discrimination

Disability discrimination refers to the unfair or prejudicial treatment of individuals with disabilities based on their disability, either perceived or actual. It involves treating people with disabilities less favorably or denying them equal opportunities and access to goods, services, education, employment, and other aspects of society (Graeme, 2000). Disability discrimination can occur in various settings, including education, employment, healthcare, housing, and public services. Types of disability discrimination can include:

- **Direct Discrimination:** This occurs when someone is treated less favorably because of their actual or perceived disability. For example, a person with a visible disability might be denied a job opportunity solely due to their disability, even if they are qualified for the position.
- **Indirect Discrimination:** This happens when a policy, practice, or rule applies to everyone equally but disproportionately disadvantages people with disabilities. For instance, a company's policy that requires all employees to work late hours without any flexibility may discriminate against individuals with certain disabilities who may need reasonable accommodations.
- **Failure to Provide Reasonable Accommodations:** Disability discrimination can also occur when an employer, service provider, or educational institution fails to provide reasonable accommodations that would enable a person with a disability to participate fully and equally. Reasonable accommodations are adjustments or modifications that do not cause undue hardship and are required by law to ensure equal access.
- **Harassment:** This involves any unwanted conduct related to disability that creates a hostile, intimidating, or offensive environment. It can include offensive remarks, jokes, or actions directed towards individuals with disabilities.
- **Denial of Services:** Refusing to provide services or access to facilities for individuals with disabilities is a form of discrimination. For example, a business refusing to provide service to a customer with a disability is engaging in discrimination.
- **Segregation:** Separating individuals with disabilities from others without justification can be discriminatory. This may involve segregating students with disabilities from their non-disabled peers in schools or restricting access to public facilities.

Laws and regulations in many countries protect individuals with disabilities from discrimination. For instance, in India, the RPwD Act, 2016 provides protections against disability discrimination in various areas. Similarly, other countries have their own laws and policies to address disability discrimination. By promoting awareness, fostering inclusivity, and ensuring compliance with disability rights laws, societies can work towards eliminating disability discrimination and creating a more equitable and accessible environment for all individuals.

### Mechanisms to Protect PwDs from Discriminations and Inequal Treatment in India

India does not have a specific "Disability Discrimination Act." However, it does have a comprehensive legislation known as "The Rights of Persons with Disabilities Act, 2016" (RPwD Act) that aims to protect the rights and promote the inclusion and empowerment of persons with disabilities in various aspects of life. The Rights of Persons with Disabilities Act, 2016 was enacted on December 28, 2016, and it replaced the previous law, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The RPwD Act aligns with the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD) and provides a more robust legal framework for safeguarding the rights of people with disabilities. The Rights of Persons with Disabilities Act, 2016, represents a significant step towards the protection and promotion of the rights of persons with disabilities in India. It aims to create an inclusive society where persons with disabilities can fully participate and contribute to all aspects of life.

The Rights of Persons with Disabilities Act, 2016 (RPwD Act) in India plays a crucial role in preventing and addressing discrimination against Persons with Disabilities (PwDs) by providing a comprehensive legal framework that safeguards their rights and ensures equal opportunities. Here are some ways the RPwD Act helps stop discrimination against PwDs:

- **Equal Opportunities and Non-Discrimination:** The RPwD Act explicitly states that every person with a disability has the right to equality, non-discrimination, and protection of their rights. This provision sets the foundation for preventing discrimination in various aspects of life, including education, employment, healthcare, and public services.
- **Reservation in Education and Employment:** The Act mandates a

certain percentage of seats and job opportunities to be reserved for PwDs in educational institutions and public employment. This reservation helps ensure that PwDs have equal access to education and employment opportunities and are not excluded due to discrimination.

- **Accessibility:** The RPwD Act emphasizes the creation of accessible environments for PwDs, including public buildings, transportation, and information and communication technologies. By ensuring accessibility, the Act reduces barriers and discrimination faced by PwDs in accessing various services and facilities.
- **Reasonable Accommodations:** The Act requires employers, educational institutions, and other service providers to provide reasonable accommodations to PwDs. Reasonable accommodations are adjustments or modifications that enable PwDs to fully participate and perform on an equal basis with others. This provision ensures that PwDs are not discriminated against due to their disability-related needs.
- **Prohibition of Discriminatory Advertisements:** The RPwD Act prohibits the publication of any advertisement that discriminates against PwDs in employment or any other opportunity. This measure helps curb the perpetuation of negative stereotypes and encourages inclusive practices.
- **Disability Rights Courts:** The Act allows for the establishment of special courts to handle cases related to violations of the rights of PwDs. These courts offer a mechanism for seeking legal redress against discrimination and ensuring that justice is served promptly.
- **Awareness and Sensitization:** The RPwD Act emphasizes the need for awareness and sensitization programs to promote a positive attitude towards PwDs and to prevent discrimination based on disability. These programs aim to change societal perceptions and behavior towards PwDs.
- **Monitoring Mechanism:** The Act provides for the establishment of State and National Commissions for Persons with Disabilities, which play a vital role in monitoring the implementation of disability rights and addressing complaints related to discrimination.

Overall, the Rights of Persons with Disabilities Act, 2016, is a significant step towards creating an inclusive and equitable society for PwDs in India. By establishing legal protections, promoting accessibility, and providing mechanisms for seeking redress against discrimination, the Act helps to prevent and address discriminatory practices and ensure that PwDs can fully participate and contribute to all aspects of life. However, effective implementation, awareness, and collaboration between stakeholders are essential to maximize the impact of the Act in stopping discrimination against PwDs.

### Disability Discrimination in Education

Disability discrimination in education refers to any unfair treatment or exclusion of individuals with disabilities in the educational context. This can occur at all levels of education, from primary and secondary schools to higher education institutions. Disability discrimination can manifest in various ways, and it is essential to address these issues to ensure that all students have equal access to educational opportunities. Here are some common forms of disability discrimination in education:

- **Inaccessible Facilities:** Schools that fail to provide necessary accommodations or have inaccessible facilities, such as classrooms, libraries, laboratories, and restrooms, are discriminating against students with disabilities.
- **Inadequate Resources:** Discrimination can occur when schools do not allocate sufficient resources to support students with disabilities. This includes not providing necessary assistive technologies, accessible learning materials, or qualified personnel to assist with their needs.
- **Denial of Accommodations:** Schools may deny reasonable accommodations or modifications necessary for students with disabilities to participate fully in educational activities. This denial can put these students at a significant disadvantage compared to their peers.
- **Exclusion from Activities:** Discrimination may occur when students with disabilities are excluded from extracurricular activities, field trips, or certain educational programs based solely on their disability.
- **Bullying and Harassment:** Students with disabilities may face bullying and harassment from peers or even school staff due to their disability. Such mistreatment can create a hostile learning environment and hinder academic progress.
- **Lack of Training:** Schools that do not provide adequate training to faculty and staff on disability awareness and inclusion may inadvertently perpetuate discrimination.
- **Inappropriate Discipline:** Students with disabilities may be subject to disciplinary actions more frequently or harsher than their non-disabled peers due to behavior related to their disability. This form of discrimination is referred to as "disability-based discipline."
- **Inequitable Testing Conditions:** Discrimination can occur if testing conditions or assessment methods are not adapted to meet the needs of students with disabilities, preventing them from demonstrating

their true abilities.

- Stereotyping and Low Expectations: Stereotyping and low expectations from teachers and administrators can limit the opportunities and academic achievements of students with disabilities.

Addressing disability discrimination in education requires a multi-faceted approach, involving educators, administrators, policymakers, and society as a whole. Some actions that can help combat disability discrimination include:

- Implementing and enforcing laws and policies that protect the rights of individuals with disabilities in education, such as the RPwD Act (2016) in India.
- Providing professional development and training for educators and staff to raise awareness of disability rights, inclusion, and best practices for supporting students with disabilities.
- Creating accessible and inclusive learning environments, including physical infrastructure, educational materials, and technology.
- Ensuring that students with disabilities have access to appropriate accommodations and support services to facilitate their learning and participation in all aspects of education.
- Promoting a culture of empathy, respect, and understanding among students and staff to prevent bullying and harassment.
- Encouraging the involvement of parents and disability advocacy groups in decision-making processes related to disability inclusion and support in education.
- By addressing disability discrimination in education, we can work towards creating a more equitable and inclusive educational system that allows all students to reach their full potential.

### Disability Discrimination in the Workplace

Disability discrimination in the workplace occurs when an employer treats an individual with a disability unfavorably because of their disability, or when the employer fails to make reasonable accommodations to enable the individual to perform their job effectively (Lindsay, 2011). This type of discrimination is prohibited in many countries by laws and regulations, such as the RPwD Act, 2016 in India, the Americans with Disabilities Act (ADA) in the United States and the Equality Act in the United Kingdom. Here are some common forms of disability discrimination in the workplace:

- Hiring and Recruitment: Discrimination can occur during the hiring process when a qualified candidate is not offered a job solely because of their disability. It may also involve asking inappropriate questions about the candidate's disability during interviews.
- Firing and Layoffs: Terminating or laying off an employee because of their disability, rather than their job performance, constitutes discrimination.
- Failure to Provide Reasonable Accommodations: Employers are required to provide reasonable accommodations to individuals with disabilities, allowing them to perform essential job functions. Failure to provide these accommodations is a form of discrimination.
- Unequal Pay and Benefits: Paying employees with disabilities less than their non-disabled counterparts for the same work is discriminatory. Similarly, denying benefits or promotions based on disability is also unlawful.
- Harassment: Subjecting an employee to offensive remarks, jokes, or derogatory comments about their disability is a form of harassment and discrimination.
- Hostile Work Environment: Creating a hostile or unwelcoming work environment for an employee with a disability, which interferes with their ability to perform their job, constitutes discrimination.
- Denial of Training or Advancement Opportunities: Refusing to provide training or advancement opportunities to an employee with a disability based on their disability status is discriminatory.
- Inflexible Policies: Having workplace policies that disproportionately disadvantage employees with disabilities, without justification, is a form of discrimination.
- Medical Examinations and Inquiries: Conducting medical examinations or making disability-related inquiries of job applicants or employees that are not job-related and consistent with business necessity is considered discrimination.

Addressing disability discrimination in the workplace involves creating a culture of inclusion, understanding, and compliance with relevant laws. Here are some actions that can help combat disability discrimination:

- Education and Training: Employers should provide training to all employees, especially managers and supervisors, to raise awareness about disability rights, accommodation procedures, and the importance of fostering an inclusive workplace.
- Reasonable Accommodations: Employers must engage in an interactive process with employees to identify and provide reasonable accommodations that enable them to perform their job duties effectively.
- Policy Review: Employers should review their policies and procedures to ensure they do not inadvertently discriminate against individuals with disabilities.

- Complaint Mechanisms: Establish clear and confidential complaint mechanisms for employees to report instances of discrimination and harassment.
- Diverse and Inclusive Hiring Practices: Adopt practices that promote diversity and inclusivity during the recruitment and hiring process to ensure that candidates with disabilities are considered fairly.
- Leadership Commitment: Leadership should demonstrate a commitment to disability inclusion, both in policy and action, to set the tone for the entire organization.
- Monitoring and Compliance: Regularly monitor workplace practices, employee satisfaction, and compliance with disability-related laws and regulations.

By taking proactive measures to prevent disability discrimination and promoting an inclusive work environment, employers can create a more equitable workplace where employees with disabilities can thrive and contribute their talents and skills to the organization.

### Disability Discrimination in Healthcare

Disability discrimination in healthcare occurs when individuals with disabilities receive unequal or substandard medical treatment due to their disability. This discrimination can manifest in various ways and can significantly impact the health and well-being of people with disabilities. Healthcare providers and institutions have a legal and ethical obligation to ensure equal access to quality care for all patients, regardless of their disabilities. Here are some common forms of disability discrimination in healthcare:

- Inaccessible Facilities: Healthcare facilities that lack appropriate accommodations, such as wheelchair ramps, accessible examination rooms, or medical equipment, can prevent individuals with disabilities from accessing necessary medical services.
- Negative Attitudes and Stereotyping: Healthcare providers who hold negative attitudes or stereotypes about individuals with disabilities may provide subpar care or overlook their healthcare needs.
- Communication Barriers: Failure to provide effective communication methods for patients with hearing, speech, or cognitive disabilities can hinder the patient-provider relationship and lead to misdiagnosis or inadequate treatment.
- Refusal of Treatment: Denying medical treatment or necessary procedures based on a patient's disability is discriminatory and violates their right to access healthcare services.
- Lack of Training and Awareness: Healthcare professionals who are not adequately trained in disability awareness and accommodations may inadvertently overlook the specific needs of patients with disabilities.
- Inequitable Allocation of Resources: If healthcare resources, such as medical equipment or medication, are distributed unfairly, it can disproportionately affect individuals with disabilities.
- Informed Consent Challenges: Some individuals with certain cognitive disabilities may face difficulties in providing informed consent for medical treatment. In such cases, healthcare providers must use appropriate and ethical decision-making processes to ensure the patient's best interests.
- Assumptions about Quality of Life: Assuming that a person's life with a disability is not worth living or that certain treatments are not necessarily due to their disability is discriminatory and unethical.

Addressing disability discrimination in healthcare requires a multi-pronged approach, involving healthcare providers, institutions, policymakers, and the broader community. Here are some strategies to combat disability discrimination in healthcare:

- Disability Training for Healthcare Professionals: Offer comprehensive training to healthcare professionals to raise awareness about disability rights, disability etiquette, and the importance of providing equitable care.
- Accessible Facilities and Equipment: Ensure that healthcare facilities are physically accessible, and medical equipment is designed to accommodate the needs of patients with disabilities.
- Effective Communication Methods: Employ communication techniques, such as sign language interpreters, captioning, or communication boards, to facilitate effective communication with patients with disabilities.
- Patient Advocacy and Support: Establish patient advocacy programs that can support individuals with disabilities in navigating the healthcare system and ensuring their rights are respected.
- Patient-Centered Care: Emphasize patient-centered care to understand and address the unique healthcare needs and preferences of individuals with disabilities.
- Inclusive Policies and Procedures: Review and update policies and procedures to promote disability inclusion and prevent discrimination.
- Collaboration with Disability Organizations: Partner with disability advocacy organizations to gain insights, guidance, and resources for creating an inclusive healthcare environment.
- Compliance with Disability Laws: Ensure full compliance with



disability-related laws and regulations, such as the RPwD Act, 2016 in India, to protect the rights of patients with disabilities.

By adopting these strategies and fostering a culture of inclusion, healthcare providers and institutions can work towards eliminating disability discrimination in healthcare and improving the overall health outcomes and experiences of individuals with disabilities.

## CONCLUSION

Addressing discrimination against persons with disabilities is crucial. Every individual, regardless of their abilities or disabilities, has the right to be treated with dignity, respect, and equality. Discrimination based on disability violates these fundamental human rights. Addressing discrimination ensures that persons with disabilities (PwDs) can enjoy equal opportunities, access to services, and participation in society. Discrimination creates barriers that hinder the full inclusion and participation of PwDs in various aspects of life, such as education, employment, healthcare, and social activities. By addressing discrimination, we can create inclusive environments that enable PwDs to fully participate and contribute to society, promoting diversity and enriching communities. Discrimination against disabilities perpetuates social injustices and inequalities. PwDs often face disadvantages in areas such as education, employment, income, and healthcare. Addressing discrimination helps rectify these inequities, promoting social justice and equal opportunities for all individuals, regardless of their abilities. Discrimination against disabilities not only affects individuals but also has economic consequences. By addressing discrimination and promoting equal opportunities for PwDs, we tap into a significant talent pool that can contribute to the workforce, innovation, and economic growth. Inclusive workplaces and accessible services also expand market opportunities and consumer base. Discrimination can have severe negative impacts on the mental health and well-being of PwDs. Experiencing stigma, exclusion, and prejudice can lead to increased stress, anxiety, and depression. Addressing discrimination helps create supportive and inclusive environments that promote the mental health and well-being of PwDs. Discrimination based on disability can create divisions and fractures in society. By addressing discrimination, we foster social cohesion and a sense of belonging for all individuals. Inclusive communities that value diversity and respect the rights of PwDs contribute to a more cohesive and harmonious society. Many countries have legal frameworks, such as the United Nations Convention on the Rights of Persons with Disabilities, that require the protection of the rights of PwDs and the elimination of discrimination. Addressing discrimination is not only an ethical imperative but also a legal obligation for governments and organizations. By addressing discrimination against disabilities, we can build a more inclusive, equitable, and just society that values the rights and contributions of all individuals, regardless of their abilities. It is essential to raise awareness, challenge stereotypes, and implement policies and practices that promote equal opportunities and non-discrimination for PwDs.

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